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9 *Attorneys for Defendants Gavin Newsom, in his  
10 official capacity as Governor of the State of  
California, and individually; Gustavo Velasquez, in  
11 his official capacity as Director of the State of  
California Department of Housing and Community  
12 Development, and individually; and the California  
Development*

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14 IN THE UNITED STATES DISTRICT COURT  
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
16 SOUTHERN DIVISION

17

18 **CITY OF HUNTINGTON BEACH, a  
19 California Charter City, and  
Municipal Corporation, the  
20 HUNTINGTON BEACH CITY  
COUNCIL, MAYOR OF  
21 HUNTINGTON BEACH, TONY  
STRICKLAND, and MAYOR PRO  
22 TEM OF HUNTINGTON BEACH,  
GRACEY VAN DER MARK,**

23 Plaintiffs,  
24

25 v.  
26

27 **GAVIN NEWSOM, in his official  
capacity as Governor of the State of**

28 8:23-cv-00421-FWS-ADS

STATE DEFENDANTS' REPLY  
TO PLAINTIFFS' OPPOSITION  
TO REQUEST FOR JUDICIAL  
NOTICE

Date: July 27, 2023  
Time: 10:00 a.m.  
Courtroom: 10D  
Judge: The Honorable Fred W.  
Slaughter

Trial Date: September 10, 2024  
Action Filed: March 9, 2023

**California, and individually;  
GUSTAVO VELASQUEZ in his  
official capacity as Director of the  
State of California Department of  
Housing and Community  
Development, and individually;  
STATE OF CALIFORNIA  
DEPARTMENT OF HOUSING AND  
COMMUNITY DEVELOPMENT;  
SOUTHERN CALIFORNIA  
ASSOCIATION OF  
GOVERNMENTS; and DOES 1-50,  
inclusive.**

#### Defendants.

Defendants Gavin Newsom, Gustavo Velasquez, and the California Department of Housing and Community Development (HCD) (collectively, the “State Defendants”) respond to Plaintiffs’ Opposition to the State Defendants’ Request for Judicial Notice (RJN) as follows:

Plaintiffs argue this Court should not take judicial notice of **Exhibit 1** because the City did not assert a federal constitutional violation in a case it previously brought against California’s housing laws, including the housing element law. *See City of Huntington Beach v. Newsom, et al.*, Los Angeles County Superior Court Case No. 30-2019- 01044945. That contention is irrelevant to this Court’s consideration of whether to take judicial notice. As explained in the State Defendants’ RJN, a federal court may take notice of adjudicative facts, including court records and pleadings, because they are either “generally known within the trial court’s territorial jurisdiction” or “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” *See* Federal Rule of Evidence 201(b); *see also Harris v. Cty. of Orange*, 682 F.3d 1126, 1131-32 (9th Cir. 2012) (internal citations omitted) (finding “documents on file in federal or state courts” to be undisputed matters of public record). Plaintiffs do not (and cannot)

1 contest the authenticity of the Los Angeles Superior Court’s ruling. In any event,  
 2 the State Defendants did not at any point in their Motion to Dismiss claim that  
 3 Plaintiffs asserted *federal* constitutional claims in that action. This objection is  
 4 unfounded.

5 Plaintiffs also falsely assert that **Exhibit 3** is a proposed amended complaint  
 6 that has not been filed in the state court action. Exhibit 3 is, in fact, the state’s  
 7 *original* Petition and Complaint filed on March 8, 2023. This Court should  
 8 disregard Plaintiffs’ opposition to this request for that reason alone.

9 If Plaintiffs meant to object to Exhibit 4, the State Defendants made explicit in  
 10 their Motion to Dismiss and RJN that *that* pleading was part of a Motion to Amend  
 11 filed in Orange County Superior Court on April 10. *See* State Defendants’ Motion  
 12 to Dismiss, ECF 45, p. 7, lines 15-17 (“On April 10, 2023, HCD and the Attorney  
 13 General added a claim addressing the City’s failure to adopt a compliant sixth-cycle  
 14 housing element; a motion to amend the complaint is pending.”); *see also* State  
 15 Defendants’ RJN, ECF 45, p. 2, lines 1-5 (“On April 10, 2023... HCD and the  
 16 Attorney General of California moved to amend their Petition and Complaint,  
 17 adding a claim addressing the City’s failure to adopt a compliant sixth-cycle  
 18 housing element.”).

19 A glance at Exhibit 4 confirms that the proposed First Amended Petition and  
 20 Complaint was filed on April 10. Though partially overwritten by this Court’s own  
 21 electronic stamp, the Orange County Superior Court’s electronic stamp is legible at  
 22 the top of the cover page of the Declaration of Thomas P. Kinzinger, confirming  
 23 that document was filed on “04/10/2023 02:06:00 PM.” And, as stated in the  
 24 Declaration itself, a true and correct copy of the proposed amended pleading was  
 25 attached as Exhibit A to that Declaration, and it is included for this Court as part of  
 26 Exhibit 4 to the State Defendants’ RJN. Thus, the proposed amended complaint is a  
 27 court record subject to judicial notice. Federal Rule of Evidence 201(b); *Harris*,  
 28 682 F.3d at 1131-32 (internal citations omitted). And even if no electronic stamping

1 were visible, this Court could “readily determine” this document was filed on April  
2 10 by viewing the Orange County Superior Court’s public docket.

3 In any event, the State Defendants’ Motion to Amend was granted, and the  
4 First Amended Petition and Complaint filed, on June 9. *See People of California ex*  
5 *rel. Rob Bonta et al. v. City of Huntington Beach*, Orange County Superior Court  
6 Case No. 30-2023-01312235. This Court can also readily determine this fact by  
7 viewing the Orange County Superior Court’s public docket. Assuming Plaintiffs  
8 intended to oppose this Court’s judicial notice of Exhibit 4, such opposition has no  
9 merit.

10 For the foregoing reasons, the State Defendants respectfully request that this  
11 Court grant the State Defendants’ Request for Judicial Notice in its entirety, and  
12 take judicial notice of each and every exhibit included therein.

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Dated: June 22, 2023

Respectfully submitted,

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/s/ *Thomas Kinzinger*  
  
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